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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 121219726-2726-01]

RIN 0694-AF85

Addition of Certain Persons to the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by adding three entries to the Entity List for one person who has been determined by the U.S.

Government to be acting contrary to the national security or foreign policy interests of the United States. This person will be listed on the Entity List under Germany, Russia, and Taiwan.

DATES: *Effective date:* This rule is effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Karen Nies-Vogel, Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-5991, Fax: (202) 482-3911, E-mail: ERC@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Entity List (Supplement No. 4 to Part 744) notifies the public about entities that have engaged in activities that could result in an increased risk of the diversion of exported, reexported, or transferred (in-country) items to weapons of mass destruction (WMD) programs. Since its initial publication, grounds for inclusion on the Entity List have expanded to activities sanctioned by the State Department and activities contrary to U.S. national security or foreign policy interests, including terrorism and export control violations involving abuse of human rights. Certain exports, reexports, and transfers (in-country) to entities identified on the Entity List require licenses from BIS and are usually subject to a policy of denial. The availability of license exceptions in such transactions is

very limited. The license review policy for each entity is identified in the License Review Policy column on the Entity List and the availability of license exceptions is noted in the Federal Register notices adding persons to the Entity List. BIS places entities on the Entity List based on certain sections of part 744 (Control Policy: End-User and End-Use Based) of the EAR.

The ERC, composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, when appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote.

ERC Entity List Decisions

Additions to the Entity List

This rule implements the decision of the ERC to add one person, under three entries, to the Entity List on the basis of § 744.11 (License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States) of the EAR. The three entries, two of which are alternate addresses and slightly different names used in different countries for the person being added to the Entity List, consist of single entries in Russia, Germany, and Taiwan. The ERC reviewed § 744.11(b) (Criteria for revising the Entity List) in making the determination to add this one person under three entries to the Entity List. Under that paragraph, persons for which there is reasonable cause to believe, based on specific and articulable facts, that the persons have been

involved, are involved, or pose a significant risk of being or becoming involved in, activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such persons may be added to the Entity List. Paragraphs (b)(1) through (5) of § 744.11 include an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States. The ERC has reasonable cause to believe that the one person being listed under three separate entries, T –Platforms, a company headquartered in Russia, has been listed as the ultimate consignee on multiple automated export system (AES) records filed for the export of dual-use items controlled for national security reasons but shipped without the required licenses. Further, the ERC has reason to believe that T-Platforms is associated with military procurement activities, including the development of computer systems for military end-users and the production of computers for nuclear research. T-Platforms has locations in Germany and Taiwan that are engaged in the same types of activities of concern. Based on T-Platforms’ activities, including those of its locations in Germany and Taiwan, the ERC determined that it is engaged in activities contrary to U.S. national security and foreign policy interests and poses a high risk of involvement in violations of the EAR.

Therefore, pursuant to § 744.11(b)(3) and (5) of the EAR, the ERC determined that such conduct raises sufficient concern that prior review of exports, reexports, or transfers (in-country) of items subject to the EAR involving this one person being listed under three entries, and the possible imposition of license conditions or license denials, will enhance BIS’s ability to prevent violations of the EAR.

For the one person being added to the Entity List under three entries, the ERC specified a license requirement for all items subject to the EAR and established a license application review policy of a presumption of denial. The license requirement applies to any transaction in which items are to be exported, reexported, or transferred (in-country) to such person or in which such person acts as purchaser, intermediate consignee, ultimate consignee, or end-user. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to this person being added to the Entity List under three entries.

This final rule adds the following one person under three entries to the Entity List:

Germany

(1) T-Platforms GmbH, a.k.a., the following one alias:

-tPlatforms GmbH.

Woehlerstrasse 42, d-30163, Hanover, Germany (See alternate addresses under T-Platforms in Russia and T Platforms in Taiwan).

Russia

(1) T-Platforms, Leninsky Prospect 113/1, Suite B-705, Moscow, Russia; and 8

Vvedenskogo Street, Suite K52B, Moscow, Russia (See alternate addresses under T-Platforms GmbH in Germany and T Platforms in Taiwan).

Taiwan

(1) T Platforms, a.k.a., the following one alias:

-Platforms Solutions Development Limited.

10F, No. 409, Sec. 2 Tiding Blvd., Neihu District, Taipei, Taiwan (See alternate addresses under T-Platforms GmbH in Germany and T-Platforms in Russia).

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export or reexport, on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR).

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 15, 2012, 77 FR 49699 (August 16, 2012), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

Rulemaking Requirements

1. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 58 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to Jasmeet_K._Seehra@omb.eop.gov, or by fax to (202) 395-7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a 30-day delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. § 553(a)(1)). BIS implements this rule to protect U.S. national security or foreign policy interests by preventing items

from being exported, reexported, or transferred (in country) to the person being added to the Entity List. If this rule were delayed to allow for notice and comment and a 30-day delay in effective date, then the entity being added (one person under three entries) to the Entity List by this action would continue to be able to receive items without a license and to conduct activities contrary to the national security or foreign policy interests of the United States. In addition, because this party may receive notice of the U.S. Government's intention to place this entity on the Entity List once a final rule was published, it would create an incentive for this person to either accelerate receiving items subject to the EAR to conduct activities that are contrary to the national security or foreign policy interests of the United States, and/or to take steps to set up additional aliases, change addresses, and other measures to try to limit the impact of the listing on the Entity List once a final rule was published. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are not applicable.

List of Subject in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of January 19, 2012, 77 FR 3067 (January 20, 2012); Notice of August 15, 2012, 77 FR 49699 (August 16, 2012); Notice of September 11, 2012, 77 FR 56519 (September 12, 2012); Notice of November 1, 2012, 77 FR 66513 (November 5, 2012).

2. Supplement No. 4 to part 744 is amended:

- a. By adding under Germany, in alphabetical order, one German entity;
- b. By adding under Russia, in alphabetical order, one Russian entity; and
- c. By adding under Taiwan, in alphabetical order, one Taiwanese entity;

The additions read as follows:

Supplement No. 4 to Part 744 - Entity List

Country	Entity	License requirement	License review policy	Federal Register citation

GERMANY	*****			
	T-Platforms GmbH, a.k.a., the following one alias: -tPlatforms GmbH. Woehlerstrasse 42, d-30163, Hanover, Germany (See alternate addresses under T-Platforms in Russia and T Platforms in Taiwan).	For all items subject to the EAR. (See §744.11 of the EAR.)	Presumption of denial.	78 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].

RUSSIA	*****			
	T-Platforms, Leninsky Prospect 113/1, Suite B-705, Moscow, Russia; <u>and</u> 8 Vvedenskogo Street, Suite K52B, Moscow, Russia (See alternate addresses under T-Platforms GmbH in Germany and T Platforms in Taiwan).	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	78 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].

TAIWAN	*****			
	T Platforms, a.k.a., the following one alias: -Platforms Solutions Development Limited. 10F, No. 409, Sec. 2 Tiding Blvd., Neihu District, Taipei, Taiwan (See alternate addresses under T-Platforms GmbH in Germany and T-Platforms in Russia).	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	78 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Dated: March 1, 2013

Matthew S. Borman

Assistant Secretary for Export Administration

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